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Introduction

The banking sector in Ireland benefits from an open economy with direct access to the EU labour market, EU regulatory passporting and a skilled, English-speaking talent pool. The Irish banking ecosystem consists of retail banks that primarily offer services to the domestic economy, and international banks that operate on a wider multi-jurisdictional basis.

The banking sector has evolved significantly in recent years. As a result of Brexit, certain international banks have expanded their operations in Ireland with a view to establishing European hubs. The Central Bank of Ireland (the "**CBI**") has noted that cross-border assets held by third-country subsidiaries is a factor in the growth of banks' aggregate balance sheets in Ireland.

Ireland's domestic retail banking sector has reduced in size in recent years. The number of domestic banks serving the sector now stands at three. This follows the exits of KBC and Ulster Bank (NatWest) from the Irish market, which both ceased domestic operations in 2023.

The shrinking of the domestic retail banking sector prompted the Government to carry out a retail banking review in 2022, a process that culminated in the publication of 34 separate recommendations across the themes of access to cash, consumer protection, lending to SMEs, and relaxing remuneration restrictions on the remaining retail banks – Bank of Ireland, Allied Irish Banks (AIB) and PTSB.

Those recommendations now form part of Government policy. Over the course of 2023, work commenced on their implementation. Notably, the Credit Union (Amendment) Act 2023 was enacted, expanding the services that credit unions can provide, thus enabling credit unions to play a greater role in the provision of banking services.

A further key trend that accelerated during COVID and continues apace is the wider adoption of digital and mobile banking. Challenger banks, such as Bunq and Revolut, provide digital-only offerings and operate with low-cost bases, and have increased in popularity. EU banks also offer deposit products in Ireland on a passported basis, sometimes using intermediaries such as Raisin Bank. Incumbent Irish banks are now required to substantially invest in technology to keep pace with new market entrants.

Despite technological advancements, there remains an enduring demand for cash. According to a recent survey by BearingPoint, cash is the most frequently used payment method in Ireland. To safeguard the role of cash in the economy, the Government is progressing "Access to Cash" legislation, which will, amongst other matters, empower the Minister for Finance to set "regional criteria" stipulating the minimum number of ATMs required per

100,000 people. Over the coming months, the Department of Finance will also finalise the National Payments Strategy, establishing a roadmap for the future evolution of Ireland's payments system, particularly in the context of digitalisation.

A key factor in anticipating future banking-related developments in Ireland, for 2024 and beyond, will be the trajectory of the economic environment in Europe. The European Central Bank (the "**ECB**") recently published its supervisory priorities for 2024–26. Supervised institutions, including those based in Ireland, are asked to: (i) strengthen resilience to immediate macro-financial and geopolitical shocks; (ii) accelerate the effective remediation of shortcomings in governance and the management of ESG-related risks; and (iii) make further progress in relation to digital transformation and building operational resilience frameworks.

Additionally, in July 2023, the European Banking Authority (the "**EBA**") issued the results of its EU-wide stress test, which was stated to have used the most severe adverse scenario to date. The stress test showed European banks remaining resilient in a hypothetical adverse scenario. According to the exercise, Ireland's two largest retail banks hold enough capital to withstand a severe adverse economic shock scenario.

The CBI has noted that economic context is crucial to determining regulatory focus. In 2024, the CBI can be expected to continue safeguarding financial stability, ensuring that firms operate in the interests of consumers. To this end, the CBI will conduct a comprehensive review of its Consumer Protection Code 2012. The review is centred on certain themes, including two broad discussion themes of "Availability and Choice" and "Acting in Consumers' Best Interests", and eight more-focused themes, including "Innovation & Disruption", "Digitalisation" and "Climate Matters".

Regulatory architecture: Overview of banking regulators and key regulations

As an EU Member State, banking regulation Ireland is fundamentally interlinked with the EU regulatory architecture.

The European Single Supervisory Mechanism (the "**SSM**") established in 2014 designated the ECB as the competent authority for banking supervision in the EU. Banks are divided into two categories: significant institutions ("**SIs**"); and less significant institutions ("**LSIs**").

The ECB supervises SIs based in Ireland, while the CBI supervises LSIs (in close cooperation with and with oversight from the ECB). The CBI uses a risk-based supervision approach entitled "PRISM". The CBI states that this approach delivers value by focusing the regulator's energies on the firms that are most significant and on the risks that pose the greatest threat to financial stability and consumers.

The CBI is the competent authority in respect of anti-money laundering and countering the financing of terrorism ("**AML/CFT**") obligations for all banks. The CBI is also solely responsible for conduct of business supervision for banks.

The Financial Services and Pensions Ombudsman (the "**FSPO**") is responsible for the resolution of individual complaints against banks. The Competition and Consumer Protection Commission (the "**CCPC**") enforces competition and consumer protection laws, enhances consumer welfare, and promotes competition and financial education.

The key regulations applying to banks in Ireland are as follows:

<u>The SSM Framework Regulation and the SSM Regulation</u>

Regulation (EU) 468/2014 (the "**SSM Framework Regulation**") and Regulation (EU) 1024/2013 (the "**SSM Regulation**") establish the framework for banking supervision in the EU. Those Regulations confer the task of banking supervision on the ECB and allocate responsibilities between the ECB and the CBI.

The Capital Requirements Framework

Regulation (EU) 575/2013 (the "**CRR**") and Directive 2013/36/EU ("**CRD IV**") apply to banks in Ireland. The CRR is directly effective in Ireland. CRD IV was transposed into Irish law by the European Union (Capital Requirements) Regulations 2014. The CRR and CRD IV govern authorisation requirements, the supervisory framework, prudential rules, governance, and reporting requirements, amongst other aspects.

Pursuant to Part 5 of the European Union (Capital Requirements) Regulations 2014, a bank may passport into Ireland by establishing a branch in Ireland (subject to notifying the CBI or the ECB, as applicable) or providing services in Ireland (subject to notifying the CBI or the ECB, as applicable).

The Central Bank Acts

The Central Bank Acts 1942 to 2023, as amended, also apply to banks. Key provisions of the regime include: (i) Section 9 of the Central Bank Act 1971, which applies to the granting of bank licences; (ii) Part IIIC of the Central Bank Act 1942, which provides the CBI with enforcement powers in respect of regulated firms; and (iii) the Central Bank Reform Act 2010 (the "**2010 Act**"), which sets out a fitness and probity regime.

In 2023, the Central Bank (Individual Accountability Framework) Act 2023 was signed into law. The new Individual Accountability Framework (the "**IAF**") confers powers on the CBI to strengthen and enhance individual accountability in the management and operation of regulated financial service providers ("**RFSPs**"). Core provisions of the IAF have since come into operation (including a modified fitness and probity regime, new conduct standards applicable to individuals in RFSPs, and enhancements to CBI enforcement capabilities). The Senior Executive Accountability Regime ("**SEAR**"), an accountability regime broadly comparable to the UK's Senior Managers and Certification Regime ("**SMCR**"), is the only pillar of the IAF that has yet to come into operation. SEAR will begin to apply to in-scope firms from July 2024, but with a deferral in relation to (independent) non-executive directors until July 2025.

AML/CFT

The CBI is the competent authority in Ireland for the monitoring and supervision of compliance with AML/CFT obligations under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (the "**CJA 2010**"), as amended. The CBI is empowered to take measures "reasonably necessary" to ensure that institutions comply with the provisions of the CJA 2010.

Notably, an AML/CFT package is being progressed at the EU level, which includes a Sixth Anti-Money Laundering Directive, a new Anti-Money Laundering Regulation and a Regulation establishing an EU Anti-Money Laundering Authority ("**AMLA**"). Ireland has submitted a bid to host the new Authority, once in operation.

Conduct of business

The CBI is the competent authority in Ireland for the supervision of financial conduct of business regulation for RFSPs. The CBI supervises conduct through primary legislation and codes of conduct, including the Consumer Protection Code 2012, the Code of Conduct on Mortgage Arrears 2013, and the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-Sized Enterprises) Regulations 2015.

In 2024, the CBI intends to introduce a revised and modernised Consumer Protection Code, which involves, amongst other matters, consolidating existing rules with the Code of Conduct on Mortgage Arrears.

Credit reporting

The CBI administers a statutory credit register known as the Central Credit Register (the "**CCR**"), pursuant to the Credit Reporting Act 2013 (the "**CRA**"). The purpose of the CCR is to enable better quality lending by providing a "single borrower view" of all loans, deferred payments, and other forms of financial accommodation provided by creditors to the borrower. Regulated entities that provide credit are within scope, including banks (domestic and EEA passporting), retail credit firms, credit unions, payment institutions, investment firms, and certain investment funds. In addition, unregulated providers of credit, such as corporate lenders, SPVs, and purchasers of loan portfolios are within scope of the CRA. In-scope firms must: (i) register with the CBI as "credit information providers"; (ii) categorise customers (consumers *vs* non-consumers) and guarantors; (iii) submit detailed data about existing and new credit agreements of €500 or more in a prescribed format to the CCR; (iv) check the CCR before advancing new credit of €2,000 or more; and (v) ensure that processes and procedures are compliant with the CRA.

Recovery planning

Directive 2014/59/EU (the "**BRRD**") was transposed into Irish law by the European Union (Bank Recovery and Resolution) Regulations 2015. The BRRD was introduced to provide resolution authorities with effective powers to manage failing banks. The BRRD is intended to enhance the resilience of banks to ensure that they are better prepared for and able to recover in the event of a significant financial deterioration. The Regulations transposing the BRRD include, amongst other requirements, the requirement that banks prepare recovery plans identifying appropriate actions in the event of a significant financial deterioration to reduce the likelihood of a bank failure. In addition, the CBI is given early intervention powers to execute recovery options, remove management, and modify the structure of an institution.

EMIR

Regulation (EU) 648/2012 ("**EMIR**") implements increased transparency requirements regarding derivatives, by imposing requirements concerning the reporting of derivative contracts, clearing derivatives subject to the mandatory clearing obligation, risk mitigation techniques for non-centrally cleared derivatives, and setting out requirements for central counterparties and trade repositories.

The CBI is the designated competent authority in Ireland for the purposes of EMIR. In November 2023, the CBI announced that it had fined a UCITS investment fund, for the first time, for breaching the reporting obligation under Article 9(1) of EMIR. The fine was imposed pursuant to Ireland's European Union (European Markets Infrastructure) Regulations 2014, as amended, which were made to give full effect to EMIR.

Operational resilience

Due to the increased use of technology and outsourcing in financial services, regulators are increasingly focused on outsourcing-related risks and on promoting operational resilience. Banks are subject to the CBI's cross-industry guidance on outsourcing and on operational resilience. The CBI's guidance on operational resilience was issued in December 2021, communicating to industry how to prepare for, and respond to, operational disruptions affecting the delivery of critical or important business services.

Cross-industry guidance on outsourcing was issued by the CBI in December 2021, highlighting the potential of outsourcing to threaten the operational resilience of regulated firms. The CBI expects all regulated firms to demonstrate that they have appropriate measures in place to effectively manage outsourcing risk and to ensure compliance with the sectoral legislation, regulations, and guidance applicable to their businesses.

In December 2022, Regulation (EU) 2022/2554 ("**DORA**") was published in the Official Journal. DORA applies to banks, imposing requirements relating to ICT risk management frameworks, relationships with third-party providers, digital operational resilience testing and incident reporting. DORA will apply from 17 January 2025. Over the course of 2023, the European Supervisory Authorities (the "**ESAs**") published for consultation draft technical standards under DORA, which they hope to submit to the European Commission in 2024.

Additional guidance

Banks in Ireland are subject to additional guidelines, codes and other regulatory measures issued by the EBA, the ECB and the CBI.

Recent regulatory themes and key regulatory developments in Ireland

Governance

A significant regulatory topic in 2023 was the promotion of sound governance practices in regulated firms, evidenced most clearly by the introduction of the IAF.

Individual Accountability Framework

The Central Bank (Individual Accountability Framework) Act 2023 was signed into Irish law on 9 March 2023. The IAF confers powers on the CBI to strengthen and enhance individual accountability in the management and operation of RFSPs.

Core pillars of the IAF came into operation in 2023. Those include:

- conduct standards for individuals performing controlled function ("**CF**") and pre-approval controlled function ("**PCF**") roles at RFSPs;
- an enhanced fitness and probity regime, with updated certification, due diligence, and reporting requirements; and
- enhanced CBI enforcement powers, including an amended Administrative Sanctions Procedure ("**ASP**") removing the so-called "participation link", whereby the CBI could only bring enforcement action against individuals at a firm if it had first found that the firm had committed a breach.

SEAR is the only IAF pillar yet to come into operation. SEAR will begin to apply to in-scope firms from July 2024, and in relation to (independent) non-executive directors at in-scope firms from July 2025. Banks (but not credit unions) will be included in the first implementation phase of SEAR.

Key themes permeating the IAF are obligations:

- to act honestly, ethically and with integrity;
- to act with due skill, care and diligence;
- to act in the best interest of the customer;
- to avoid conflicts of interest;
- to maintain and follow adequate controls and procedures;
- to engage with the regulator openly and in good faith; and
- to disclose to the CBI any information of which it would reasonably expect notice.

Credit markets

2023 saw continued regulatory interventions, both domestically and at an EU level, in relation to credit markets, particularly in the context of changes accelerated by digitalisation. This continued a key 2022 trend, a year that saw the passage of Irish legislation expanding the regulatory parameters for lending to include non-traditional financial products, such as buy-now-pay-later ("**BNPL**") and high-cost credit loans.

New EU credit servicing regime

In December 2023, the Minister for Finance signed the European Union (Credit Servicers and Credit Purchasers) Regulations 2023, transposing the provisions of the EU Credit Servicing Directive. The EU-based regime for credit servicing, transposed via the Irish Regulations, applies only to non-performing loans ("**NPLs**") originated by EU credit institutions, and transferred on or after 30 December 2023 (the date of coming into operation). The primary goal of the EU Directive is to assist EU credit institutions in efficiently selling NPLs so that those credit institutions are not hampered in discharging their key role of providing finance to EU businesses. As part of that overarching goal, the Directive contemplates the standardisation of information for potential credit purchasers as well as the creation of a new authorisation regime for credit servicers, which can be passported throughout the EU.

Significantly, the new EU-based regime will operate alongside Ireland's existing domestic credit servicing regime under the Central Bank Act 1997. The 2023 Regulations provide that existing credit servicing firms authorised under the domestic Irish regime before 30 December 2023 are automatically deemed to be authorised to act as a credit servicer under the new EU regime.

Consumer Credit Directive

In October 2023, Directive (EU) 2023/2225 ("**CCD II**") was published in the Official Journal. CCD II, which will repeal and replace Directive 2008/48/EC, following the date of entry into application of 20 November 2026, is considerably broader in scope compared to its precursor. Significantly, CCD II extends consumer protections to financial products such as BNPL, which have become more common in recent years due to changes that have occurred across EU markets.

Distance Marketing of Financial Services Directive

In November 2023, Directive (EU) 2023/2673 concerning distance financial services contracts was published in the Official Journal. The Directive revises the framework for distance financial services contracts, in the context of rapid technological development. According to the EU, the Directive will bolster online consumer protection and provide traders with clarity. The Directive acts as a "safety net", meaning that all financial services not covered by specific sectoral legislation will be covered by the new rules, once they are in application. EU Member States are required to apply measures transposing the Directive from June 2026.

CBI warnings on new forms of credit

2023 saw a continued regulatory focus on non-traditional loan products. In June 2023, the CBI issued a "Dear CEO" letter to high-cost credit providers ("**HCCPs**"). The letter provides an overview of findings from supervisory engagements with HCCPs, and outlines expectations in relation to credit providers' compliance with regulatory obligations. Furthermore, in November 2023, the CBI issued a warning on short-term consumer credit, specifically BNPL products. According to CBI research, many Irish consumers do not fully understand key features of BNPL. Following engagement with credit firms, the CBI has outlined its expectation that firms inform consumers of all pertinent information, to ensure that consumers can make fully informed decisions.

Digitalisation/innovation

Recent CBI authorisation activity reveals the extent to which financial services are being transformed by digitalisation and innovation. The payments sector continues to grow, and the last two years have seen the registrations of Ireland's first virtual asset service providers

(“**VASPs**”), registered with the CBI in accordance with Section 26 of the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2021. Authorisation activity has occurred in relation to providers of hire purchase, BNPL, and consumer hire financial products, as well as HCCPs, further highlighting the changing nature of the financial services sector in Ireland.

In the context of increased innovation and digitalisation, incumbent financial service providers are required to substantially invest in technology to keep pace with challenger “disruptors”, and to meet consumer demands. In September 2023, Financial Services Ireland published a report entitled “Ireland’s Fintech Future”. The report surveyed a range of firms, including fintech start-ups and longer-established firms digitalising their businesses. The survey highlights the scale of investment made by firms, both in their own operations and in the wider Irish economy.

Measures combatting financial exclusion

A further trend is evident in relation to Government measures seeking to combat financial exclusion, particularly in the context of digitalisation. Government is committed to ensuring that certain sectors of society are not left behind by the digital transition.

The Minister for Finance has published the General Scheme of the Access to Cash Bill. The legislation aims to safeguard the role of cash in the economy, to ensure that the rise of digital banking does not lead to financial exclusion, particularly in the context of generational and urban-rural divides. The Bill empowers the Minister for Finance to set “regional criteria” stipulating the minimum number of ATMs required per 100,000 people, and the proportion required to be within 10km of an ATM and a cash service point.

Over the course of 2024, the Department of Finance will finalise the National Payments Strategy, which sets a roadmap for the evolution of Ireland’s payments system, particularly in the context of digital transformation. A key element of the work will be to examine and analyse payment fraud. Much of the area is governed by EU legislation; the proposed revision of the EU Payment Services Directive, or “PSD3”, contains measures combatting fraud. During its consultation, the Department of Finance will assess whether supplementing domestic measures are required.

To further combat financial exclusion, the Department of Finance is developing a National Financial Literacy Strategy, which follows the recommendation of the retail banking review.

ESG

ESG considerations continued to be a key focus in 2023, as supervisory authorities sought to embed ESG-related risks in the prudential framework.

In September 2023, the ECB published the results of its second climate stress test. The results of the exercise revealed that an accelerated green transition would provide significant benefits for firms, compared with late-push or delayed transition scenarios. Furthermore, a proactive approach to the green transition would, according to the ECB, enable banks to benefit from both lower credit risk and larger investment needs, thereby improving their long-term income positions.

In October 2023, the EBA published a report assessing how the current prudential framework captures ESG-related risks. The report recommends enhancements to accelerate the integration of ESG-related risks across the Pillar I framework. The proposed enhancements aim to support the transition to a sustainable economy, whilst ensuring the continued resilience of the banking sector.

As part of the agreed Basel III reforms to the EU capital requirements frameworks, EU co-legislators have reached agreement on the further integration of ESG-related risks in the prudential framework. Under the agreed texts:

- EU banks will have to draw up transition plans under the prudential framework that will need to be consistent with the sustainability commitments banks undertake pursuant to other provisions of EU law;
- bank supervisors will oversee how banks handle ESG risks and include ESG considerations in the context of the annual supervisory examination review process ("**SREP**");
- ESG reporting and disclosure requirements will apply to all EU banks, with proportionality for smaller banks; and
- banks will enjoy a favourable risk weight treatment only where they finance an infrastructure project with a positive or neutral environmental impact assessment attached to it.

It is envisaged that those changes to the EU capital requirements framework will apply from January 2025.

The EBA is also currently preparing a one-off "Fit-for-55" climate risk scenario analysis of EU banks, assessing the resilience of the financial sector in the context of the Fit-for-55 package. The one-off exercise is part of the new EBA mandate received by virtue of the European Commission's Renewed Sustainable Finance Strategy.

In addition to the incorporation of ESG-related risk in the prudential regime, the various EU reporting regimes continue to apply, including obligations under Article 8 of Regulation (EU) 2020/852 (the "**Taxonomy Regulation**") and prudential disclosures under the CRR. In January 2023, Directive (EU) 2022/2464 (the "**CSRD**") came into force. The CSRD amends Directive 2014/95/EU (the "**NFRD**") to introduce detailed reporting requirements regarding sustainability issues. The new regime will oblige in-scope companies, including banks, to disclose information on the societal and environmental impact of their operations and that of their value chain. The CSRD will apply on a phased basis beginning with reporting in 2025 for the 2024 financial year.

Additionally, the CBI has announced its intention to recognise certain sustainability knowledge and competencies as part of its Minimum Competency Code 2017 (the "**MCC**"), with effect from 1 January 2025.

Diversity and inclusion

In March 2023, the CBI released a report that presented data on the gender diversity of applications for senior positions in regulated firms that require pre-approval. Overall, the percentage of female applicants increased to 32%, compared with 31% in 2021 and 22% in 2017.

Work is ongoing in relation to the promotion of gender diversity; progress reports were published in the year on the Woman in Finance Charter, which was launched in 2022 as part of the "Ireland for Finance" strategy. Signatories of the Charter commit their organisations to improving the number of women in management and board-level positions to achieve better gender balance and a more inclusive working environment.

At an EU level, June 2023 saw the entry into force of the Pay Transparency Directive, which contains a number of measures designed to redress the gender pay gap. The provisions of that Directive are required to be transposed by Member States within three years.

New mortgage rules

The CBI continues to engage with regulated entities to ensure that they meet expectations, outlined in November 2022, on protecting mortgage consumers in a changing economic landscape, with a particular focus on supporting borrowers, and enhancements to the provision of information and options to borrowers eligible to switch mortgage product or provider. As stated above, over the course of 2024, the CBI intends to introduce a revised and modernised Consumer Protection Code, which includes consolidating existing rules with the Code of Conduct on Mortgage Arrears.

Credit union services

In December 2023, the President signed into law the Credit Union (Amendment) Act 2023. The Act provides for an expansion of credit union services in Ireland, implementing the outcomes of the review of the domestic policy framework for credit unions. The expansion of services offered by credit unions is particularly significant in the context of the shrinking retail banking sector, which entails opportunities for non-traditional credit institutions.

Client asset requirements

In January 2023, the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Investment Firms) Regulations 2023 were published, which contain the CBI's client asset requirements ("**CAR**"). CAR will apply to banks carrying out MiFID investment business and includes provisions in respect of reconciliation and calculation, transfer of business, reporting requirements to the CBI, client disclosures and development of a client asset management plan. CAR has applied to in-scope banks since 1 January 2024.

Bank governance and internal controls

Fitness and probity

The CBI's fitness and probity regime was introduced under the 2010 Act. A key regulatory focus is the fitness and probity of individuals carrying out key and customer-facing positions in banks. Those key and customer-facing positions are categorised as CFs and PCFs. The CBI expects individuals carrying out those functions to be competent and capable, honest, ethical, of integrity, and financially sound.

The fitness and probity regime consists of three pillars:

- firstly, regulated firms are subject to ongoing obligations in relation to the application of the fitness and probity standards;
- secondly, the CBI has a "gatekeeper" role whereby it pre-approves individuals nominated for PCF functions; and
- thirdly, the CBI has investigative and enforcement powers in the event that queries arise as to an individual's fitness and probity.

In addition to the 2010 Act, the CBI's fitness and probity regime is set out in the Central Bank (Supervision and Enforcement) Act 2013 (Section 48 (1)) Minimum Competency Regulations 2017 and statutory codes, specifically the Fitness and Probity Standards and the MCC.

In line with the allocation of responsibilities between the CBI and the ECB in respect of SIs and LSIs, the ECB is responsible for the fitness and probity assessments of the management board of SIs and "Key Function Holders" in SIs.

Significant changes were introduced to the fitness and probity regime by the IAF (see in detail above), including in relation to certification, due diligence, and reporting obligation; those changes came into operation in December 2023. CBI guidance has been issued, along with Regulations designating further CFs and PCFs.

Corporate Governance Requirements for Credit Institutions 2015

The Corporate Governance Requirements for Credit Institutions 2015 impose minimum core standards upon all banks and additional requirements upon banks designated as "High Impact" by the CBI, to ensure that appropriate and robust corporate governance frameworks are in place. These requirements are minimum requirements that bank are required to satisfy, to ensure strong and effective governance. Requirements include those relating to: (i) responsibility, composition, and role of the board; (ii) the role of the Chairman; (iii) the role of the CEO; (iv) the role of the CRO; (v) independent non-executive directors and executive directors; and (vi) requirements and roles of committees.

Banks are required to submit a compliance statement, on an annual basis, or with such frequency as the CBI may notify to a bank, specifying whether they have complied with the corporate governance requirements during the relevant period.

Remuneration

Banks in Ireland are subject to governance and internal control requirements contained in the CRR and CRD IV, as transposed into Irish law, and the EBA's Guidelines on Sound Remuneration Policies. CRD IV sets out requirements in respect of identifying those persons whose professional activities have a material impact on a bank's risk profile ("**Material Risk Takers**") who will then be subject to specific remuneration requirements. The EBA states that, for Material Risk Takers, the alignment of remuneration incentives with a bank's risk profile is crucial. The EBA Guidelines also provide that remuneration policies must be gender neutral, and respect the principle of equal pay for equal work or work of equal value.

Bank capital requirements

Capital requirements for Irish banks are determined by the CRR and CRD IV, as transposed into Irish law. The CRR and CRD IV set out the required capital a bank must hold. This includes a regulatory minimum for all banks ("**Pillar I**"), and a bank-specific additional capital requirement that is decided by the relevant regulator ("**Pillar II**"). Additionally, banks must also meet a "combined buffer requirement", which operates as additional capital to prevent banks from breaching Pillar I and II requirements.

The CRR and CRD IV provide the CBI and the ECB with a range of macroprudential policy instruments to apply, including the countercyclical capital buffer (the "**CCyB**"), macroprudential measures in relation to risk weights on real estate exposures, and the systemic risk buffer (the "**SyRB**").

Both the CBI and the ECB have powers to impose stricter macroprudential requirements in specific scenarios. Pursuant to Article 458 of the CRR, the CBI has the power to implement stricter national implementing measures where it identifies changes in the intensity of macroprudential or systemic risk in the financial system with the potential to have serious negative consequences to the financial system and the real economy in Ireland. Article 5 of the SSM Regulation provides that the ECB may apply stricter requirements to macroprudential measures that are already in place at the national level.

The CBI has stated that, in setting macroprudential requirements, it takes account of the fact that Ireland is a small, open economy and, on that basis, is more susceptible to shocks relative to larger, more diversified economies. The CBI has stated that the operation of the macroprudential capital framework over the past decade, including during COVID, demonstrated the value of releasable capital buffers to better enable the banking system to support the economy.

The CBI considers the CCyB to be its primary macroprudential capital tool for safeguarding resilience to macro-financial risks. From 24 November 2023, the CCyB increased from 0.5% to 1%. According to the CBI, this is due to the fact that higher interest rates are expected to be positive for banks' profitability; the move to 1% takes account of the importance of building resilience in advance of a potential materialisation of risks.

The CBI has a target CCyB rate of 1.5%, which is intended to apply from 7 June 2024.

For systemically important banks, capital buffers for systemically important institutions ("**O-SII**") will continue to be used by the CBI. The CBI has indicated that it does not intend to introduce the SyRB at this point, though it does not rule out using the SyRB in the future.

Rules governing banks' relationships with their customers and other third parties

Relationships with customers

Banks in Ireland are subject to EU legislative frameworks regarding consumer protection; for example, consumer credit, payment services, mortgage credit and distance marketing.

Domestically, the CBI is the competent authority for conduct of business rules of banks. The CBI has stated that, where individual consumers have issues with financial products or services, their first line of protection is the bank itself. In this respect, the CBI expects banks to respond to customer complaints speedily, efficiently, and fairly. Where individual complaints are not resolved by a bank to a customer's satisfaction, those individuals may refer them to the FSPO, which is responsible for the resolution of individual complaints about banks.

Consumer protection is a key focus of the CBI. The CBI has issued codes of conduct that apply to banks in respect of consumer protection, including the Consumer Protection Code, the Code of Conduct on Mortgage Arrears, and the Code of Conduct on the Switching of Payment Accounts with Payment Service Providers.

The Consumer Protection Code is a set of principles and rules that apply to banks when dealing with consumers, covering topics such as the sale of financial products and services, the provision of financial information or advice, the advertising of financial products and services, and how complaints are handled. As detailed above, the CBI's review of the Code is expected to progress over the course of 2024, with the CBI intending to introduce a revised and modernised Code, and to consolidate rules with the Code of Conduct on Mortgage Arrears. The CBI is planning further Regulations for 2025.

The CBI issues "Dear CEO" letters, publishes speeches, holds industry roundtables, and issues discussion papers on consumer issues. The CBI has also issued the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-Sized Enterprises) Regulations 2015, which set out the processes that regulated entities are required to adopt in facilitating access to lending for SMEs.

The CBI has issued a "Dear CEO" letter on protecting consumers in a changing economic landscape. This letter specifies the actions that the CBI expects regulated firms to take to ensure that consumers are protected. Areas highlighted for firms' attention include: (i) affordability and sustainability; (ii) provision of relevant, clear, and timely information; (iii) effective operational capacity; and (iv) sales and product governance.

Lending to related parties

In July 2022, the CBI issued a new edition of its Code of Practice on Lending to Related Parties. The CBI's Code covers requirements for banks when granting or otherwise dealing with loans to related parties, reporting to the CBI, and specific exemptions (for cases where a bank becomes a significant shareholder in a borrower, in respect of first home schemes and lending to natural connected persons).

Deposit Guarantee Scheme

The Deposit Guarantee Scheme (the "**DGS**"), established pursuant to the European Union (Deposit Guarantee Schemes) Regulations 2015, protects depositors in the event of a bank being unable to repay deposits. The DGS is administered by the CBI and is funded by the banks covered by the scheme. The Irish DGS protects deposits held at EU branches of authorised Irish banks. Deposits held with banks that are authorised in another EEA Member State are covered by that country's DGS.

Dormant accounts

Ireland has enacted legislation, the Dormant Accounts Act 2001, in respect of dormant accounts. Accounts are considered "dormant" where there has been no activity for 15 years. The Dormant Accounts Act 2001 provides that unclaimed money will be transferred to a fund managed by the National Treasury Management Agency (the "**NTMA**") and paid out by the Dormant Accounts Fund Disbursements Board. The Dormant Accounts Fund Disbursements Board will distribute the funds to programmes designed to assist with the personal development of those who are economically, educationally, or socially disadvantaged. The rights of original account holders are not affected by the transfer to the fund and the original account holders retain the right to reclaim the funds (including interest).

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